

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI

LEIGH ANN ALFORD, individually and as)	
Administrator of the Estate of GERALD)	
MARTIN, (deceased),)	
)	
Plaintiff,)	
vs.)	Cause No. _____
)	
UNITED STATES OF AMERICA,)	
)	
Defendant.)	

COMPLAINT

COMES NOW Plaintiff Leigh Ann Alford individually and as Administrator of the Estate of Gerald Martin (deceased) by and through undersigned counsel, and for her Complaint against Defendant United States of America, states:

JURISDICTION AND VENUE

1. JURISDICTION: Jurisdiction is proper under 28 U.S.C. §1346(b). This Count is brought pursuant to the Federal Tort Claims Act, 28 U.S.C. §2671, et seq.
2. VENUE: Venue is proper in this District pursuant to 28 U.S.C. §1402 and 28 U.S.C. §1346 as Plaintiff is and was at all relevant times a resident of this Judicial District and the tortious acts or omissions complained of occurred within this Judicial District.

ALLEGATIONS COMMON TO ALL COUNTS

3. At all times relevant hereto, Gerald Martin was and an adult resident and citizen of the State of Missouri and a veteran of the United States Military.
4. Gerald Martin died on June 5, 2018 in Missouri.

5. Leigh Ann Alford, an adult citizen of the State of Missouri, is the daughter and sole surviving child of Gerald Martin, and has been appointed as the Administrator of the Estate of Gerald Martin (deceased).

6. At all times relevant hereto, The Department of Veterans Affairs Medical Center at Columbia, Missouri, a/k/a “Harry S. Truman VA Hospital, a/k/a “Harry S. Truman Memorial Veterans' Hospital”, “Truman Hospital”, “Truman Memorial Hospital”, “Truman VA”, “HSTVA and the VISN 15: VA Heartland West facilities [collectively “Truman VA Hospital”] were and are a part of the Department of Veterans Affairs, an agency of the U.S. government and did own, control, manage or operate a medical center and hospital in Columbia, State of Missouri, and elsewhere in Missouri, and did employ physicians, nurses and other licensed medical professionals to practice medicine and/or their health-care related professions, and did hold itself out to the public and to Plaintiff as providing qualified medical and hospital services.

7. At all times relevant hereto, Truman VA Hospital was a part of the federal government or was a “Federal Agency” as defined in 28 U.S.C. §2671, et seq., and said Hospital and each individual defendant herein named was acting within the scope of its agency or employment by the United States Department of Veterans Affairs.

8. At the times indicated herein, Gerald Martin had presented at and was accepted and was being treated as a patient at Truman VA Hospital, and by and through each individual health care provider employed therein or providing services by contract or agreement of said facility or the Department of Veterans Affairs, and each of them owed to Gerald Martin, and to Plaintiffs, the duty to provide hospital, nursing, medical and/or surgical care with the skill and care of a reasonable physician or other health-care professional in the same or similar

circumstances, and Truman VA Hospital had the duty to provide such qualified and competent health care professionals and care.

9. At all relevant times, Defendant UNITED STATES OF AMERICA acted by and through Truman VA Hospital, and its actual and apparent agents and employees, including its physicians, administrators, nurses, technicians, social workers, aides, and including, but not limited to, each of the individual Defendants named herein, and did hold each of said care providers out as its employee or agent, both by express statement and/or by action and uniform or insignia, and Plaintiff did rely upon such representations.

10. An administrative claim pursuant to the Federal Tort Claims Act, 28 U.S.C. §2671, et seq., was timely made on behalf of the veteran and served on the Department of Veterans Affairs on September 18, 2017, prior to the veteran's death, and was denied on March 30, 2018.

11. An Amended administrative claim was filed on September 24, 2018 as well as a Request for Reconsideration was filed by Plaintiff on September 25, 2018, [Exhibit 1] which was acknowledged and accepted by Defendant on October 17, 2018. [Acceptance of reconsideration, Exhibit 2]. There has not been, to date, a denial of that Amended administrative claim.

12. Plaintiff also filed on September 24, 2018, an new Administrative claim, based upon the wrongful death of the veteran, after defendant passed from his injury. [Exhibit 3]. Defendant has not denied that claim as of the date of this filing.

13. Decedent, Gerald Martin, was living independently and performing his own "activities of daily living" (ADL's) prior to his admission to Defendant's facility in 2017.

14. Gerald Martin, was admitted and was a patient at the Truman VA Hospital, June

6th through June 12, 2017 during which he underwent and tolerated well bilateral femoral endarterectomies as well as bilateral kissing iliac stents.

15. Post surgically, decedent was noted in the hospital to be recovering well and was ambulating over one-hundred feet and able to transfer to his chair, and the hospital records indicate he had healed well prior to discharge.

16. Gerald Martin was ordered to be discharged from Truman VA on June 12th, 2017, in stable condition with orders to resume regular activities.

17. On that same date, an employee registered nurse of the Truman VA, Claudia Jo Simkins, prepared Gerald Martin for discharge, noting he was ambulating well.

18. To effect the discharge, Nurse Simkins placed Gerald Martin in a wheelchair, using a pillow to prop up the patient, and pushed the veteran out to the circle drive where his daughter, Leigh Ann Alford, was waiting with a vehicle to take him home.

19. Upon exiting the building, nurse Simkins While exiting the building through the circle drive front doors, nurse Simkins directed the wheelchair to a sudden stop, and “dumped” the veteran from the wheelchair or otherwise caused or allowed him to fall from the wheelchair, causing decedent to land directly on his buttocks on the concrete circle drive.

20. Decedent suffered and demonstrated sudden and extreme pain and had to be lifted with the assistance of multiple providers and placed in the waiting vehicle.

21. The impact from the fall from the wheelchair caused decedent to suffer multiple vertebral fractures as well as dehiscence of his surgical incisions, after which he was no longer able to necessarily ambulate after the fall, nor was he able to sustain his independence he had prior to the June 6th admission to Truman VA.

22. During the evening of June 12, 2017, after the fall Gerald Martins PICC line began leaking and he woke the morning of June 13, 2017 soaking wet from his PICC line.

23. Due to the fractures, leaking PICC line and injuries Gerald Martin sustained from the fall from while escorted by Truman VA registered nurse Simkin, decedent's daughter was instructed to take Gerald Martin to the Emergency Room to be examined, and Plaintiff took her father to the closest facility, which was Citizens Memorial Hospital in Bolivar Missouri.

24. Upon examination and x-rays at Citizens Memorial Gerald Martin was diagnosed with multiple superior endplate compression fractures located in his spine at L1 and T12.

25. Gerald Martin was discharged from Citizens Memorial with compression fractures and physician instructions to follow up with his vascular surgeon, primary care physician and Dr. Morrison.

26. As a direct result from the fall causing pain and compression fractures, Gerald Martin had a dramatic decreased immobility, severe pain, depression, was never able to live independently again.

27. Plaintiff's decedent followed up at the Truman VA facility where, due to his wound dehiscence, pain and infection problems the veteran was transferred to Missouri University Hospital in Columbia.

28. At Missouri University Hospital, an additional midshaft fracture of the left clavicle was identified and surgery was performed to address the failure of his vascular surgeries and his post operative infections.

29. The veteran was then transferred to Osage Beach Rehabilitation facility on or

about July 7, 2017.

30. From that time until his death July 5, 2018, the veteran was transferred and treated between the Truman VA, University of Missouri health facilities, Osage Beach Rehabilitation facility, or other health care facilities, and did not regain the ability to live on his own.

COUNT I
Survival Action

COMES NOW Plaintiff as Administrator of the Estate of Gerald Martin (deceased) and for Count I of her Complaint states:

31. Plaintiff restates and incorporates by reference paragraphs one through 30 as if fully restated in Count I herein.

32. Plaintiff is the duly appointed Administrator of the Estate of Gerald Martin, (deceased) [Exh. 4], and is the proper party to bring this action pursuant to the Missouri Survival Act, §537.020 et seq.

33. At the time Gerald Martin was being discharged, Defendant knew of his medical conditions and infirmities that decreased his ability to support or protect himself and increased risk to his health.

34. During the care of Plaintiff's decedent at the Truman VA MC, Defendant committed one or more of the following negligent acts or omissions:

- a) Defendant failed to secure Gerald Martin in his wheelchair while pushing him out for pickup;
- b) Defendant used an inadequately equipped or sized wheelchair to transfer Gerald

Martin on discharge;

- c) Defendant improperly used a pillow to raise or prop up Gerald Martin on discharge;
- d) Defendant improperly set the foot supports on the wheelchair used to discharge Gerald Martin;
- e) Defendant caused or allowed Gerald Martin to traumatically fall onto the pavement after a sudden stop during discharge;

35. As a direct and proximate result of the negligent acts or omissions aforesaid, Gerald Martin was caused to suffer vertebral fractures and other injury to his spine, fracture of his clavicle, dehiscence of his wounds and disruption of his care and medication, and/or aggravations of prior conditions, resulting in a dramatic decrease in his mobility and ability to care for himself, recover, or manage his health and personal needs, severe pain requiring long-term significant opiate medications, depression, incontinence, pressure ulcers, deconditioning and cessation of his social life and activities. As further direct and proximate result of the negligent acts and omissions above stated, and of the injuries suffered, Gerald Martin was caused to lose the ability to live independently, and was unable to do so after the fall, he suffered infection and deterioration of his body and mental state, until his death, and required additional medical and surgical care, medications and therapies, including hospitalizations and admission to rehabilitation or nursing facilities and expenses therefore.

WHEREFORE, for the reasons stated above, Plaintiff as the Administrator of the Estate of Gerald Martin (deceased) prays this Court enter judgment in her favor and against Defendant U.S.A. in such amounts as are fair and reasonable and sufficient to compensate for the loss and

damages suffered by Gerald Martin prior to his death, for costs of suit, and for such other relief as this Court deems just and proper.

COUNT II
Wrongful Death

COMES NOW Plaintiff individually as a Class I beneficiary of the Missouri Wrongful Death Act and for Count II of her Complaint states:

36. Plaintiff restates and incorporates by reference paragraphs one through 30 as if fully restated in Count I herein.

37. Plaintiff is the only child of the decedent and is thus the only known Class I beneficiary of the Missouri Wrongful Death Act and the proper party to bring this action.

38. At the time Gerald Martin was being discharged, Defendant knew or should have known of his medical conditions and infirmities that decreased his ability to support or protect himself and increased risk to his health.

39. During the care of Plaintiff's decedent at the Truman VA MC, Defendant committed one or more of the following negligent acts or omissions:

- a) Defendant failed to secure Gerald Martin in his wheelchair while pushing him out for pickup;
- b) Defendant used an inadequately equipped or sized wheelchair to transfer Gerald Martin on discharge;
- c) Defendant improperly used a pillow to raise or prop up Gerald Martin on discharge;

- d) Defendant improperly set the foot supports on the wheelchair used to discharge Gerald Martin;
- e) Defendant caused or allowed Gerald Martin to traumatically fall onto the pavement after a sudden stop during discharge;

40. As a direct and proximate result of the negligent acts or omissions aforesaid, Gerald Martin was caused to suffer vertebral fractures and other injury to his spine, fracture of his clavicle, dehiscence of his wounds and disruption of his care and medication, and/or aggravations of prior conditions, resulting in a dramatic decrease in his mobility and ability to care for himself, recover, or manage his health and personal needs, severe pain requiring long-term significant opiate medications, depression, incontinence, pressure ulcers, deconditioning and cessation of his social life and activities. As further direct and proximate result of the negligent acts and omissions above stated, and of the injuries suffered, Gerald Martin was caused to lose the ability to live independently, and was unable to do so after the fall, he suffered infection and deterioration of his body and mental state, until his death, and required additional medical and surgical care, medications and therapies, including hospitalizations and admission to rehabilitation or nursing facilities and expenses therefore; and the damage and injury sustained as described above contributed to cause and hasten his death.

WHEREFORE, for the reasons stated above, Plaintiff as the Administrator of the Estate of Gerald Martin (deceased) prays this Court enter judgment in her favor and against Defendant U.S.A. in such amounts as are fair and reasonable and sufficient to compensate for the loss and damages suffered by Gerald Martin prior to his death, for the loss of the care, comfort and company and for all other losses allowed by the Missouri Wrongful Death Act, 537.080 et seq.,

for costs of suit, and for such other relief as this Court deems just and proper.

THE LAW OFFICES OF DAVID N. DAMICK

/s/ David Damick

David N. Damick, MBEN 38903

One Metropolitan Square, Suite 2420B

211 North Broadway

St. Louis, Missouri 63102-2733

TEL: (314) 231-0570

FAX: (314) 621-8639

dnd@damicklaw.com

Attorneys for Plaintiff

JS 44 (Rev. 07/16)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

LEIGH ANN ALFORD, Individually and as Administrator of the Estate of GERALD MARTIN

CEDAR COUNTY

(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

THE LAW OFFICES OF DAVID N. DAMICK; 211 N. Broadway, STE 2420, ST. LOUIS, MO 63102; 314/231-0570

DEFENDANTS

THE UNITED STATES OF AMERICA

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input checked="" type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

FEDERAL TORT CLAIMS ACT 28 U.S.C. SECTION 2671, et seq.

Brief description of cause:

WRONGFUL DEATH SURVIVAL ACTION

VII. REQUESTED IN COMPLAINT:
☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

1,000,000.00

CHECK YES only if demanded in complaint:

JURY DEMAND:

☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

05/04/2019

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI

LEIGH ANN ALFORD, Individually
and as Administrator of the
Estate of GERALD MARTIN

Plaintiff,

v.

UNITED STATES OF AMERICA

Defendant,

Case No.

ORIGINAL FILING FORM

**THIS FORM MUST BE COMPLETED AND VERIFIED BY THE FILING PARTY
WHEN INITIATING A NEW CASE.**

☐ THIS SAME CAUSE, OR A SUBSTANTIALLY EQUIVALENT COMPLAINT, WAS
PREVIOUSLY FILED IN THIS COURT AS CASE NUMBER _____
AND ASSIGNED TO THE HONORABLE JUDGE _____.

☐ THIS CAUSE IS RELATED, BUT IS NOT SUBSTANTIALLY EQUIVALENT TO ANY PREVIOUSLY FILED COMPLAINT. THE RELATED CASE NUMBER IS _____ AND THAT CASE WAS ASSIGNED TO THE HONORABLE _____. THIS CASE MAY, THEREFORE, BE OPENED AS AN ORIGINAL PROCEEDING.

☒ NEITHER THIS SAME CAUSE, NOR A SUBSTANTIALLY EQUIVALENT COMPLAINT, HAS BEEN PREVIOUSLY FILED IN THIS COURT, AND THEREFORE MAY BE OPENED AS AN ORIGINAL PROCEEDING.

The undersigned affirms that the information provided above is true and correct.

Date: 11-5-2019

Signature of Filing Party

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI

LEIGH ANN ALFORD, individually and as)	
Administrator of the Estate of GERALD)	
MARTIN, (deceased),)	
)	
Plaintiff,)	
vs.)	Cause No. _____
)	
UNITED STATES OF AMERICA,)	
)	
Defendant.)	

AFFIDAVIT AS TO DEFENDANT UNITED STATES OF AMERICA

Comes now Affiant, David N. Damick, pursuant to §538.225 RSMo, who being under oath does affirm that the following statements are true to the full of his information and belief:

1. I am counsel for Plaintiffs in the above-captioned action.
2. I have consulted and reviewed the facts of this case with a health professional qualified and licensed in the medical professions relevant to this cause of action and/or in the same profession as the Defendants' health care providers, i.e., among them Michael Wilkins, MD. at 3030 McGee Street, Kansas City, Missouri 64108, a physician licensed to practice in the State of Missouri, Board Certified in Internal Medicine and who has cared for thousands of patients and veterans in the same or similar circumstances as are found in this case including care of post-procedure patients, and care of patients requiring one-to-one observation, and including management of advanced wound care, patients with disabilities, and has taught and trained nurses, physician assistants, and therapists in care and prevention measures, as well as having instructed medical students and residents on the evaluation, assessment, and preventive measures required for patients such as in this case, and who has experience in multiple hospital committees

and experience as Chief of Internal Medicine for a similar hospital dealing with such policies, procedures and protocols and otherwise is familiar with the issues and areas of medicine at issue in this case.

3. On information and belief, said health care professionals are knowledgeable in the relevant issues involved in this action, are in practice and have practiced or taught within the last five years in the areas of health care or medicine that is at issue in this action, and are qualified by experience and demonstrated competence in the subject of this case.

4. That I have received a written report which states that the Defendant health care providers failed to use such care as a reasonably prudent and careful health care provider would have under similar circumstances and that such failure to use such reasonable care directly caused or directly contributed to cause the damages claimed in the Petition.

Further, Affiant sayeth not.

THE LAW OFFICES OF DAVID N. DAMICK



David N. Damick, #38903
One Metropolitan Square, Suite 2420B
211 North Broadway
St. Louis, Missouri 63102-2733
TEL: (314) 231-0570
FAX: (314) 621-8639
dnd@damicklaw.com
Attorney for Plaintiff

STATE OF MISSOURI)
) SS
CITY OF ST. LOUIS)

SUBSCRIBED and sworn to before me, a notary public, this 5th day of November, 2019.


Notary

My Commission Expires:



SHANNON M GOFORTH
My Commission Expires
November 29, 2020
St. Louis City
Commission #16136127

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of Missouri

LEIGH ANN ALFORD, individually and as Administrator of the
Estate of GERALD MARTIN, (deceased)

Plaintiff

v.

THE UNITED STATES OF AMERICA

Defendant

)
)
)
)
)
)
)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* THE UNITED STATES OF AMERICA
Ms. Caroline A. Costantin
U.S. Attorney
Thomas Eagleton U.S. Courthouse
111 S. 10th Street, 20th Floor
St. Louis, MO 63102

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

THE LAW OFFICES OF DAVID N. DAMICK
211 N. Broadway, Suite 2420
St. Louis, MO 63102

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*: _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of Missouri

LEIGH ANN ALFORD, individually and as Administrator of the
Estate of GERALD MARTIN, (deceased)

Plaintiff

v.

THE UNITED STATES OF AMERICA

Defendant

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)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Mr. Dennis McGuire
Office of Chief of Counsel
Department of Veterans Affairs
441 Wolf Ledges Parkway, Suite 403
Akron, OH 44311

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: THE LAW OFFICES OF DAVID N. DAMICK
211 N. Broadway, Suite 2420
St. Louis, MO 63102

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*: _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of Missouri

LEIGH ANN ALFORD, individually and as Administrator of the
Estate of GERALD MARTIN, (deceased)

Plaintiff

v.

THE UNITED STATES OF AMERICA

Defendant

)
)
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)
)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* The Honorable William Barr
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

THE LAW OFFICES OF DAVID N. DAMICK
211 N. Broadway, Suite 2420
St. Louis, MO 63102

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*: _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: